

Coughlan, Laura

From: Laura Coughlan <Coughlan.Laura@epamail.epa.gov>
Sent: Tuesday, May 20, 2014 9:20 PM
To: Coughlan, Laura
Subject: Fw: Urgent Assistance Needed on Export Codes for Spent Lead Acid Batteries

Laura L. Coughlan, P.E.

mailing address:
U.S. Environmental Protection Agency
Office of Resource Conservation and Recovery
1200 Pennsylvania Avenue NW
Washington, DC 20460
Mail Code 5304P

physical address:
5th floor, cube N-5613
Two Potomac Yard
2733 South Crystal Drive
Arlington, VA 22202

ph: 703-308-0005
fax: 703-308-0514
email: coughlan.laura@epa.gov
----- Forwarded by Laura Coughlan/DC/USEPA/US on 05/20/2014 09:18 PM -----

From: Laura Coughlan/DC/USEPA/US
To: "RAWLS, ROBERT C" <robert.rawls@dhs.gov>
Cc: omari.s.wooden@census.gov
Date: 03/05/2010 04:29 PM
Subject: Re: FW: Fw: Urgent Assistance Needed on Export Codes for Spent Lead Acid Batteries

Thank you for the feedback. We will inform the exporters of the need to use the 8548.10.0540 code when exporting whole spent lead-acid batteries for recovery of lead, and the potential penalties should they choose to mislabel the batteries.

Laura L. Coughlan, P.E.

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email: coughlan.laura@epa.gov

▼ "RAWLS, ROBERT C" ---03/05/2010 04:09:29 PM--- Ms. Coughlan

From: "RAWLS, ROBERT C" <robert.rawls@dhs.gov>
To: Laura Coughlan/DC/USEPA/US@EPA
Cc: <omari.s.wooden@census.gov>
Date: 03/05/2010 04:09 PM
Subject: FW: Fw: Urgent Assistance Needed on Export Codes for Spent Lead Acid Batteries

Ms. Coughlan

Mislabeling of batteries can result in violations of the Census regulations. Labeling a used battery as scrap metal could result in a penalty in the amount of \$10,000.

Robert C. Rawls
Outbound Program Manager
U.S. Customs and Border Protection
202-344-2847
202-615-0922 (Govt cell)
202-344-2626 (fax)

-----Original Message-----

From: DONOFRIO, CARLA
Sent: Friday, March 05, 2010 3:43 PM
To: RAWLS, ROBERT C
Subject: FW: Fw: Urgent Assistance Needed on Export Codes for Spent Lead Acid Batteries
Importance: High

Bob,

Is this something that Sonja Grant and the hazmat group should be reviewing?

How should we handle?

Thanks - Carla

Carla D'Onofrio
Outbound Enforcement Division
Office of Field Operations
U.S. Customs & Border Protection
202-344-1196

-----Original Message-----

From: Coughlan.Laura@epamail.epa.gov
[<mailto:Coughlan.Laura@epamail.epa.gov>]
Sent: Thursday, March 04, 2010 4:03 PM

To: DONOFRIO, CARLA
Cc: Kreisler.Eva@epamail.epa.gov; omari.s.wooden@census.gov; MCPHERSON, VIRGINIA H; Heiss.Robert@epamail.epa.gov
Subject: RE: Fw: Urgent Assistance Needed on Export Codes for Spent Lead Acid Batteries

In their 2008 public comments on my rulemaking, the Association of Battery Recyclers claimed that such mislabeling was common based on compiled export shipment data by tariff code, and gave one concrete example where they informed the Chief Petty Officer at the Jacksonville port in July 2008, the Chief Petty Officer conducted a random inspection of loads destined for China, and found spent lead-acid batteries labeled as scrap metal. The Chief Petty Officer reported it to the ship's Captain, who refused to allow the containers on board. I have attached a copy of their public comments.

(See attached file: EPA-HQ-RCRA-2005-0018-0036.1.pdf)

I'm sure that the law firm representing the Association would be happy to meet and go over the compiled data from the comments, and perhaps discuss any other concrete examples they have.

More recently, another law firm, Bergeson & Campbell, emailed me an article about the mislabeling of spent lead-acid battery from the March 2010 issue of American Metals Market. I have attached it below. The lawyer, Mr. Christopher Bryant, is eager to meet and discuss this issue in more detail.

Finally, I was sent a "draft" export notice that listed a "78" chapter customs code for the export of whole spent lead-acid batteries for recycling. As part of my review I told him that I thought the code was inaccurate, gave him the 8548 code as being more accurate, and stated that listing a customs code was not required under our waste export requirements. Given that we will likely get a form officially submitted for forwarding on to the foreign government that lists customs codes, Eva and I wanted to know what the correct code to use was, and what we should tell the exporters if we see an incorrect code on one of our export notices (where it is not a required element).

Laura L. Coughlan, P.E.

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Office of Resource Conservation and Recovery 1200 Pennsylvania Avenue NW
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physical address:

5th floor, cube N-5613
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2733 South Crystal Drive
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ph: 703-308-0005

fax: 703-308-0514

email: coughlan.laura@epa.gov

From: "DONOFRIO, CARLA" <carla.donofrio@dhs.gov>

To: Eva Kreisler/DC/USEPA/US@EPA, Laura
Coughlan/DC/USEPA/US@EPA

Cc: <omari.s.wooden@census.gov>, "MCPHERSON, VIRGINIA H"
<virginia.mcpherson@dhs.gov>

Date: 03/04/2010 02:57 PM

Subject: RE: Fw: Urgent Assistance Needed on Export Codes for Spent
Lead Acid Batteries

Hi Eva,

Do you have detailed information on how they are mislabeling the
exports?

Carla

Carla D'Onofrio
Outbound Enforcement Division
Office of Field Operations
U.S. Customs & Border Protection
202-344-1196

-----Original Message-----

From: Kreisler.Eva@epamail.epa.gov [<mailto:Kreisler.Eva@epamail.epa.gov>]

Sent: Thursday, March 04, 2010 2:50 PM

To: Coughlan.Laura@epamail.epa.gov

Cc: DONOFRIO, CARLA; omari.s.wooden@census.gov; MCPHERSON, VIRGINIA H

Subject: Re: Fw: Urgent Assistance Needed on Export Codes for Spent Lead
Acid Batteries

Another question...will CBP go after companies mislabeling their
exports?

Eva H. Kreisler, Senior Attorney
International Compliance Assurance Division U.S. EPA (2254A) Office
(202) 564-8186
Fax (202) 564-0073
kreisler.eva@epa.gov

Help EPA fight pollution by reporting environmental violations on EPA's
website at <http://www.epa.gov/compliance/complaints/index.html>

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privileges. This email, including attachments, contains information

that is intended to be conveyed only to the designated recipient(s).

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| Laura Coughlan/DC/USEPA/US
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| To:        |
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| omari.s.wooden@census.gov, virginia.mcpherson@dhs.gov
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| Cc:        |
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| carla.donofrio@dhs.gov, Eva Kreisler/DC/USEPA/US@EPA
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Batteries
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So would it be correct to advise exporters of intact spent lead-acid batteries for recycling that claim they are exporting lead scrap under the Chapter 78 codes that such mislabeling is not acceptable, and could be considered fraud under Title 18?

Laura L. Coughlan, P.E.

mailing address:

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ph: 703-308-0005

fax: 703-308-0514

email: coughlan.laura@epa.gov

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|omari.s.wooden@census.gov
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| To: |
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|Eva Kreisler/DC/USEPA/US@EPA, Eva Kreisler/DC/USEPA/US@EPA, Laura
Coughlan/DC/USEPA/US@EPA |

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|carla.donofrio@dhs.gov
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| 03/04/2010 01:15 PM
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| Fw: Urgent Assistance Needed on Export Codes for Spent Lead Acid
Batteries |

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Carla,

Can you forward this message to Linda McPherson? I can't seem to extract her email from below.

You are correct... The correct code that should be used for spent cell batteries is 8548.10.0540 "Lead-acid storage batteries, of a kind for starting engines". Based on the explanatory notes for subheading 8548 it states for "spent primary cells, spent primary batteries and spent electric accumulators are generally intended for processing to recover metals (lead, nickel, cadmium, etc.) metal compounds or slag". Chapter 78 is not the correct code, because the lead that will be extracted, is not what's being exported. Lead is not being exported. Spent batteries are being exported and 8548.10.0540 should be used. If you need any more information, please let me know.

Omari Wooden
Foreign Trade Ombudsman
US Census Bureau
4600 Silver Hill Road, Room 6K413
301.763.3829 v
301.763.4347 f

----- Forwarded by Omari S Wooden/FTD/HQ/BOC on 03/04/2010 01:04 PM

|----->
| From: |
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| "DONOFRIO, CARLA" <carla.donofrio@dhs.gov>
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| To: |
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|<omari.s.wooden@census.gov>
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|03/03/2010 10:17 AM
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|FW: Urgent Assistance Needed on Export Codes for Spent Lead Acid
Batteries |

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Hi Omari,

Could you help with this issue to classify spent lead acid batteries
(see below)?

If not, I'll try to track someone down in our national import
specialists section in NY.

Thanks - Carla

Carla D'Onofrio
Outbound Enforcement Division
Office of Field Operations
U.S. Customs & Border Protection
202-344-1196

-----Original Message-----
From: MCPHERSON, VIRGINIA H

Sent: Wednesday, March 03, 2010 7:31 AM
To: DONOFRIO, CARLA
Subject: FW: Urgent Assistance Needed on Export Codes for Spent Lead Acid Batteries

Hi Carla,

I received the below request from EPA. Do we do anything on the exports side to verify goods are being classified correctly at export? I'm thinking of referring her over to Census as they maintain the export portion of the HTS.

Thanks,
Virginia

Virginia McPherson
Office of International Trade
Interagency Requirements Branch
(202) 863-6563

-----Original Message-----

From: Kreisler.Eva@epamail.epa.gov [<mailto:Kreisler.Eva@epamail.epa.gov>]
Sent: Wednesday, March 03, 2010 7:12 AM
To: MCPHERSON, VIRGINIA H
Cc: Coughlan.Laura@epamail.epa.gov
Subject: Urgent Assistance Needed on Export Codes for Spent Lead Acid Batteries

Good morning Virginia,

Laura Coughlan, EPA's Office of Resource Conservation and Recovery, and I have some questions for you regarding a situation that has come up on the use of varying export codes for Spent Lead Acid Batteries (SLABs). Laura's description below provides you with all the background on the issue. Should you need further information, please do let us know. We would appreciate a prompt response on this matter since we (Laura, really) are preparing documentation, FAQ sheets and other assistance for exporters under the new upcoming rules for shipments of SLABs. Thank you.

Under new EPA hazardous waste requirements published on January 8 that become effective on July 7, shippers exporting intact, spent lead-acid batteries for recycling are required to submit a notification to EPA and obtain consent prior to making any shipment. An optional notification form that exporters may use has space to list the Customs code(s). During rule development, the Association of Battery Recyclers stated that shipments of intact/whole spent lead-acid batteries being exported for recovery of lead should be labeled as 8548100540 - lead-acid storage batteries, of a kind used for starting engines, for recovery of lead, but that exporters of SLABs were mislabeling such shipments as either (a) lead scrap from lead-acid batteries (7802000030), (b) lead scrap not from lead-acid batteries (7802000060), (c) waste and scrap from batteries (no code provided), or (d) spent non-automotive cells (no code provided).

When I searched the U.S. export codes at <http://www.census.gov/foreign-trade/schedules/b/2009/c78.html#7802>, I found the following codes and descriptions that might apply to shipments of whole spent lead-acid batteries being exported for recovery of lead:

7802	Lead waste and scrap:	
7802000030	Obtained from lead-acid storage batteries .	.kg
7802000060	Otherkg

8548	Waste and scrap of primary cells, primary batteries and electric storage batteries; spent primary cells, spent primary batteries and spent electric storage batteries; electrical parts of machinery or apparatus, not specified or included elsewhere in this chapter:	
854810	Waste and scrap of primary cells, primary batteries and electric storage batteries; spent primary cells, spent primary batteries and spent electric storage batteries:	
	Spent primary cells, spent primary batteries and spent electric storage batteries:	
	For recovery of lead:	
8548100540	Lead-acid storage batteries, of a kind used for starting enginesNo.
		kg
8548100580	OtherNo.
		kg
8548101500	Otherkg
	Other:	
8548102500	For recovery of leadNo.
		kg
8548103500	Otherkg
8548900100	Other	X

Could you please tell us what code(s) could legally apply to shipments of whole spent lead-acid batteries (e.g., used auto batteries) being exported for recovery of lead? And which of the above codes should not be used?

Eva H. Kreisler, Senior Attorney

International Compliance Assurance Division U.S. EPA (2254A) Office
(202) 564-8186
Fax (202) 564-0073
kreisler.eva@epa.gov

Help EPA fight pollution by reporting environmental violations on EPA's website at <http://www.epa.gov/compliance/complaints/index.html>

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[attachment "EPA-HQ-RCRA-2005-0018-0036.1.pdf" deleted by Laura Coughlan/DC/USEPA/US]
[attachment "Lead export distortions.pdf" deleted by Laura Coughlan/DC/USEPA/US]